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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 134 (VSB)

5 CALVIN DARDEN, JR.,

6 Trial

7 Defendant.

8 -----x

9 New York, N.Y.
October 4, 2024
10:00 a.m.

11 Before:

12 HON. VERNON S. BRODERICK,

13 District Judge
14 -and Jury-

15 APPEARANCES

16 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

17 KEVIN MEAD

WILLIAM C. KINDER

BRANDON C. THOMPSON

18 Assistant United States Attorneys

19 DONALDSON CHILLIEST & MCDANIEL LLP

BY: XAVIER R. DONALDSON

20 -and-

ANTHONY RICCO

21 Attorneys for Defendant

22 Also Present:

Alexander Ross, Paralegal

23 Arjun Ahuja, Paralegal

Melissa Baccari, FBI Special Agent

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(Trial resumed)

(In open court; jury not present)

THE COURT: You may be seated.

So it's my understanding the jurors are all here.

Do we have the laptop with the exhibits?

MR. MEAD: Yes, your Honor, we do.

THE COURT: Is it fairly self-explanatory concerning how to access it?

MR. MEAD: Let me just talk to the paralegal for one second.

THE COURT: Sure. Go ahead.

While you're doing that, it occurred to me last night that -- so you just open it up and power it up?

MR. AHUJA: There's a drive connected to it, but there's no password and it should be self-explanatory.

THE COURT: Is there a power cord?

MR. AHUJA: Yes.

THE COURT: Okay. It occurred to me that the one sentence that I added to the charge with the agreement of the parties -- let's see. Here it is. So they don't have it in the hard copy. I don't know whether the parties want to create an insert that contains the -- I think it was, the defendant was on supervised release for those prior fraud schemes until August 28, 2020.

It's up to the parties. I mean, literally, it would

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1 just be one page that we'd send back indicating where it was
2 inserted.

3 MR. MEAD: It seems the current situation seems fine
4 to us. The Court read the extra sentence and noted that it
5 wasn't, you know, on the sheet. That being said, if the
6 defense feels strongly about changing the page, we would --

7 MR. DONALDSON: I don't want to do anything else
8 related to it. I think we should leave it as is.

9 THE COURT: Leave it as is.

10 MR. DONALDSON: Yes.

11 THE COURT: Okay. That's fine.

12 I did, as Mr. Mead mentioned, say to them that it
13 wasn't part of it, but I was -- it was part of the charge.

14 So, I'm sorry, the laptop is where now?

15 MR. KINDER: Right there.

16 THE COURT: So, Ms. Disla, could you hand to the CSO
17 the laptop?

18 COURT SECURITY OFFICER: How are you?

19 THE COURT: So if we could just hand that to the jury.
20 It's got a thumb drive in it. They can plug it in to charge
21 it, and all they need to do is plug in the thumb drive and they
22 can start looking. Yes.

23 COURT SECURITY OFFICER: No problem, your Honor.

24 THE COURT: Thank you.

25 So my thought would be, for the first 15, 20 minutes

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1 or so, if I could ask counsel to remain relatively close just
2 in case there's an initial question. After that, if you want
3 to go to the cafeteria, or wherever, I think the witness rooms
4 are still -- well, do you still have access to the witness
5 rooms?

6 MR. DONALDSON: I didn't check this morning, but I'm
7 sure we do.

8 THE COURT: That's fine.

9 Does Ms. Disla have your contact information to get in
10 touch with you?

11 MR. MEAD: Yes, your Honor.

12 THE COURT: Mr. Donaldson?

13 MR. DONALDSON: I'm not sure, your Honor, but I'll
14 make sure she does.

15 THE COURT: Yes.

16 MR. DONALDSON: I'm not going to go away, but I might
17 step outside to enjoy this day. But I'll be on the benches or
18 within striking distance, someplace close.

19 THE COURT: That's fine, as long as it's not too far.

20 All right. So I'll just be waiting. I'll probably be
21 in back, but are there any issues that we should address?

22 MR. MEAD: Not from the government.

23 MR. DONALDSON: No, your Honor. Thank you.

24 THE COURT: Okay. Thank you very much.

25 (Recess taken)

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1 THE COURT: All right. If we could go on the record.

2 MR. DONALDSON: He just went to the bathroom, Judge.

3 THE COURT: Okay. Well, I think initially the
4 preliminary remarks will be that we did receive a note. It's
5 been marked as Court Exhibit One.

6 My deputy clerk is going to hand the note first to the
7 government, and you should obviously take a picture of it, and
8 second to the defense. Then once Mr. Darden returns, I have a
9 suggestion about -- well, I have a question and then perhaps a
10 suggestion about how to address the note.

11 (Pause in proceedings)

12 THE COURT: Okay. If we could go back on the record,
13 as I mentioned, we did receive a note. It's been marked Court
14 Exhibit One, and it states as follows:

15 "Questions: One, is there an index to reference the
16 exhibits available?

17 Two, if not, can we have the money flow charts for
18 Howard and Parsons?

19 Foreperson, juror no. 5."

20 So I think what I would suggest is the following: If
21 we can in short order, and with -- obviously the parties have
22 to agree -- a list of the exhibits that went back, that would
23 be the most efficient way, because that way they have the list
24 and they can access anything they want.

25 We could do two things. We could get them the charts,

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1 and we could get them the exhibits. I don't know. Let me ask
2 how quickly would we be able to create a list of the exhibits
3 that were admitted in evidence?

4 MR. RICCO: It's pretty easy.

5 MR. DONALDSON: I think they have that available.

6 THE COURT: You just have to speak up, because the
7 microphones are muted because I have that other conference.

8 MR. DONALDSON: Okay. I think that I asked the
9 government's paralegals for something like that a few days ago,
10 and I think they were able to produce something like that
11 pretty quickly. So I think that exhibit index is easily done.
12 Just so we can make it neutral, it doesn't have Federal
13 Government, X, Y, Z on it, I think that would be fine, and I
14 think we could do that without the chart. I think it's either
15 or.

16 THE COURT: It says "if not."

17 MR. DONALDSON: Right.

18 THE COURT: If we're going to do the first, that's
19 fine. The parties need to review it to make sure they're in
20 agreement that it is -- that it can go back, and then we can
21 provide it to the jury. That would allow them also to locate
22 other exhibits that are part of the -- that are on the laptop,
23 on the thumb drive.

24 MR. DONALDSON: I think that will be perfectly fine.
25 I think we can get that one done, the first one done pretty

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1 quickly.

2 THE COURT: All right. That's fine.

3 So let's get to work on that, and while you're doing
4 that, I'm going to handle my civil fairness hearing.

5 Yes, Mr. Mead.

6 MR. MEAD: If we're able to do that in agreement, does
7 the Court want to go back on the record, or could the
8 government hand it up to the court staff?

9 THE COURT: You can hand it to Ms. Disla. Ms. Disla
10 will hand it to the Court Security Officer, and it will be
11 provided to the jury.

12 MR. MEAD: Great. Thank you, your Honor.

13 MR. DONALDSON: Yes.

14 THE COURT: Thank you.

15 (Recess taken.)

16 THE COURT: So if we could go on the record.

17 Did you have some comments, Mr. Donaldson?

18 MR. DONALDSON: No. No. I have no -- no.

19 THE COURT: So it's a list, as I understand it --
20 well, let me ask, Mr. Mead, was a list generated by the
21 government and provided to the defense?

22 MR. MEAD: Yes, your Honor. We took the existing
23 exhibit list that had been provided to the Court and to the
24 defense. We've removed all the non-admitted exhibits. We've
25 admitted a column showing when the exhibit was admitted so the

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1 current list shows the admitted exhibits, the exhibit number
2 and then a description of them.

3 THE COURT: Okay. Mr. Donaldson, have you reviewed
4 that document?

5 MR. DONALDSON: Yes. The defense has reviewed it
6 along with our client, and we find this list acceptable.

7 THE COURT: Okay.

8 MR. MEAD: So I haven't spoken about this with
9 Mr. Donaldson. I think it may be a little bit hard to locate
10 the documents they were looking for. I don't think we need to
11 give them paper copies, but if we could say to the jury, we
12 understand the exhibits you're looking for are 1101 and 1102 --

13 MR. DONALDSON: I disagree with that 100 percent. I
14 don't think that is necessary. I think the note was pretty
15 clear. If you can provide us an exhibit list, fine. If not,
16 then do X, Y, and Z. So we can do the number one, so I think
17 that's all that's necessary and appropriate at this time.

18 THE COURT: All right. I guess what I would say is we
19 can send back the list. If they have trouble locating it, I'm
20 sure they will send us a note.

21 I understand the rationale by both parties as to why
22 you'd want to do that, but the note does speak in terms of an
23 index. Then, if not, having the specific exhibits.

24 So what I intend to do -- do we have a copy of the
25 list?

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1 I'll hand the list right now to my deputy clerk. She
2 will hand it to the court security officer, who will knock on
3 the door and provide it to the foreperson or to the jurors.
4 Okay.

5 MR. DONALDSON: That's the same list -- the list the
6 Court has is the same list that I have, right?

7 THE COURT: I believe so.

8 Ms. Disla, if you can let Mr. Donaldson take a look at
9 it just to be sure.

10 MR. MEAD: Yes.

11 MR. DONALDSON: If the government said yes, I'm good.

12 THE COURT: Why don't you look at the first page and
13 see how many pages it is.

14 MR. DONALDSON: It's good, Judge. It's good.

15 THE COURT: Thank you.

16 All right. Ms. Disla, thank you.

17 MR. DONALDSON: Thank you.

18 THE COURT: So, counsel, what I would ask is if you
19 could maybe remain in the courtroom for a few minutes just in
20 case there is a note concerning the list. In other words, they
21 want to ask specific questions about where the documents are.

22 I'm handing Court Exhibit One back to my deputy clerk,
23 and I'll just be -- I don't have any more conferences, so you
24 should feel free to either stay here or just be close in case.

25 MR. DONALDSON: All right. Very good.

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1 THE COURT: Thank you very much.

2 MR. RICCO: Judge, so we're here, either in the
3 conference room the Court has provided --

4 THE COURT: Terrific. We'll come and get you there or
5 we'll send you an email if you want to go down and grab
6 something in the cafeteria.

7 MR. DONALDSON: Thank you.

8 MR. RICCO: But if we do that, Judge, we'll let Ms.
9 Disla know.

10 THE COURT: All right. Thank you.

11 (Recess taken.)

12 THE COURT: You can be seated.

13 So we have a note, "we the jury have reached a verdict
14 in the case of *United States of America v. Calvin Darden, Jr.*"
15 It's signed by the foreperson, juror no. 5.

16 Now, initially the jury sent out an envelope. That
17 envelope actually had the verdict sheet in it. When I saw
18 that, I returned the verdict sheet to the jury room and said
19 that we should have a note.

20 So we're going to mark this as Court Exhibit Two. The
21 parties can make a copy of it, and then we'll get the jury.

22 Anything before we get the jury?

23 MR. DONALDSON: No, Judge.

24 MR. MEAD: No, your Honor.

25 THE COURT: Okay. We can get the jury. Thank you.

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(In open court; jury present)

THE COURT: You may be seated.

So, ladies and gentlemen, I received a note and it reads as follows: "We the jury have reached a verdict in the case *United States of America v. Calvin Darden, Jr.*" Signed by the foreperson, juror no. 5, and it's been marked as Court Exhibit Two.

So let me ask the foreperson, have you reached a verdict?

JUROR: Yes, Judge.

THE COURT: Okay. Ms. Disla, if you could get the verdict sheet from the foreperson.

Thank you.

Okay. Ms. Disla, if you could please read the verdict.

THE DEPUTY CLERK: Okay. *United States of America v. Calvin Darden, Jr.*, 23 CR 134, jury verdict form.

Okay. Count One.

THE COURT: No need to read the italicized portion.

THE DEPUTY CLERK: Got it.

THE COURT: Go ahead.

THE DEPUTY CLERK: "Count One, conspiracy to commit wire fraud or bank fraud. On Count One, the charge of conspiracy to commit wire fraud or bank fraud, we the jury find the defendant:

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1 A, with respect to Chandler Parsons, guilty;

2 B, with respect to Dwight Howard, guilty.

3 Two, Count Two, wire fraud. On Count Two, the charge
4 of wire fraud, we the jury find the defendant:

5 A, with respect to Chandler Parsons, guilty;

6 B, with respect to Dwight Howard, guilty.

7 Three, Count Three, bank fraud. On Count Three, the
8 charge of bank fraud, we the jury find the defendant guilty.

9 Four, Count Four, conspiracy to commit money
10 laundering. On Count Four, the charge of conspiracy to commit
11 money laundering, we the jury find the defendant guilty.

12 Five, Count Five, money laundering. On Count Five,
13 the charge of money laundering, we the jury find the defendant
14 guilty.

15 Final instruction, once you have answered all the
16 instructions, please have the foreperson sign and date the
17 verdict sheet. Notify the Marshal that you have reached a
18 verdict."

19 Dated October 4, 2024, 2:47 p.m. Juror no. 5,
20 foreperson.

21 THE COURT: Thank you.

22 Ms. Disla, if I could ask you to please poll the jury.

23 THE DEPUTY CLERK: Juror no. 1, is this your verdict?

24 JUROR: Yes.

25 THE DEPUTY CLERK: Juror no. 2, is this your verdict?

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1 JUROR: Yes.

2 THE DEPUTY CLERK: Juror no. 3, is this your verdict?

3 JUROR: Yes.

4 THE DEPUTY CLERK: Juror no. 4, is this your verdict?

5 JUROR: Yes.

6 THE DEPUTY CLERK: Juror no. 5, is this your verdict?

7 JUROR: Yes.

8 THE DEPUTY CLERK: Juror no. 6, is this your verdict?

9 JUROR: Yes.

10 THE DEPUTY CLERK: Juror no. 7, is this your verdict?

11 JUROR: Yes.

12 THE DEPUTY CLERK: Juror no. 8, is this your verdict?

13 JUROR: Yes.

14 THE DEPUTY CLERK: Juror no. 9, is this your verdict?

15 JUROR: Yes.

16 THE DEPUTY CLERK: Juror no. 10, is this your verdict?

17 JUROR: Yes.

18 THE DEPUTY CLERK: Juror no. 11, is this your verdict?

19 JUROR: Yes.

20 THE DEPUTY CLERK: Juror no. 12, is this your verdict?

21 JUROR: Yes.

22 THE COURT: Okay. Thank you very much, Ms. Disla.

23 Ladies and gentlemen, thank you very much. You've now

24 completed your jury service, and I know I speak on behalf of

25 the parties in thanking you for your careful attention during

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1 the trial and for your patience when we were delayed.

2 So if you want, I'll come back in a moment to thank
3 you individually, but you're also free to leave. So feel free
4 to go back, and I just have to deal with something briefly with
5 the parties, but I'll be back in a moment, okay?

6 All right. Thank you. You're dismissed.

7 (Jury dismissed)

8 (In open court; jury not present)

9 THE COURT: Okay. You may be seated.

10 Ms. Disla will mark the verdict form as Court Exhibit
11 Three, and the parties can take a photograph of the exhibit.

12 Now, with regard to next steps, with regard to any
13 post-trial motions, the parties should meet and confer and
14 within a week provide me with a schedule with regard to any
15 post-trial motions. I am going to go back and see the jurors.
16 I think there's some other issues we still have to take up, so
17 I'd ask for the parties to remain here and I'll be back
18 shortly. All right?

19 Thank you very much. I'll see you in just a few
20 moments.

21 (Recess taken.)

22 THE COURT: You can be seated.

23 All right. I'll hear from the government. Does the
24 government have an application?

25 MR. MEAD: Your Honor, the government is seeking the

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1 defendant's remand.

2 THE COURT: Okay. Well, let me ask -- so I'll hear
3 from the government with regard to that as to the bases for
4 that request.

5 MR. MEAD: Yes, your Honor.

6 As the Court is aware, the standard changes once a
7 defendant has been convicted. The standard is whether a Court
8 can find by clear and convincing evidence that the person is
9 not likely to flee or pose a danger to the safety of any other
10 person or the community.

11 We're moving on both grounds, your Honor, although
12 primarily on the danger to the community ground. We don't
13 think the Court can make a finding by clear and convincing
14 evidence that the defendant is not a danger to commit an
15 additional fraud like the one he committed here.

16 The defendant is a lifelong fraudster. This will be
17 his third fraud conviction and his third multi million dollar
18 fraud conviction. In 2004, he was convicted in state court in
19 Manhattan of a fraud. He was a stock broker. He committed a
20 fraud against his employer and against various investors. That
21 fraud was millions of dollars. He received a sentence of I
22 think less than four years. It was a state sentence, so the
23 sentencing is a little bit complicated.

24 When he got out of jail, he was quickly again
25 committing a sophisticated fraud which he was able to commit

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1 even though he had a public criminal record, which is difficult
2 of course. In that case, he had a fake deal to buy Maxim
3 Magazine, stole several million dollars in connection with
4 that, also had a fake deal for an NBA exhibition game in Taiwan
5 and stole \$500,000 through that.

6 He got a lawyer involved in the scheme with him who
7 was prosecuted. That was Newkirk. Our office signed up the
8 defendant as a cooperator. He testified at trial. There was a
9 conviction, and, as a result, he only got a year in jail.

10 He also of course impersonated his father to further
11 those frauds, as the Court heard from the transcript when we
12 read it in. He only got a year in jail, but he of course did
13 not learn his lesson from that case. He was very quickly again
14 committing fraud here.

15 Part of the fraud in this case, in particular the part
16 committed against Chandler Parsons, was done while the
17 defendant was on supervised release in this district. The
18 frauds he committed were quite sophisticated. They took place
19 over years. They involved forged documents. They involved the
20 defendant impersonating his own father and using people who the
21 victims trusted, like Charles Briscoe, Mr. Howard's agent, to
22 further the fraud.

23 The defendant is financially sophisticated. He
24 laundered the proceeds of this fraud through a number of
25 different companies. He used shell companies. He used a shell

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1 bank account with the name of another person on it to hide his
2 proceeds, and he spent all of the money on himself immediately.

3 Given this defendant's background, we don't think
4 there's any way to find by clear and convincing evidence that
5 he's not likely to do this again, and of course the standard is
6 clear and convincing evidence. And, in particular, the fact
7 that he committed this fraud partially while on supervised
8 release demonstrates how difficult it is to prevent this kind
9 of fraud by the defendant even if the Court imposes conditions
10 short of detention.

11 We're also moving on a flight risk ground, your Honor.
12 We concede that this is a less compelling ground than the
13 danger of the community. We are not aware of the defendant
14 failing to appear in the past. That being said, the defendant
15 has served relatively short jail terms in the past and he's
16 facing a much more substantial jail term in this case. Our
17 guideline calculation, which the defense may dispute, is
18 approximately 135 to 168 months. That's a very substantial
19 sentence. That's much more substantial than he served in the
20 past, and he's a fifty-year-old man, so there's a substantial
21 portion of his life that he's likely to spend in jail.

22 We're also likely to seize all of his assets. All of
23 his assets and his possessions are based on fraud. His house
24 was bought from fraud money; his cars bought from fraud money;
25 and his art, his jewelry, the other items in his house were

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1 bought with fraud money. So he's going to be divest of assets,
2 and that I think provides an additional reason for him to flee.

3 Obviously, he's appeared here. He appeared here today
4 without being detained. That said, the calculus with him has
5 changed.

6 We were in plea negotiations with the defendant. He
7 never accepted a plea. That's of course his right. It
8 indicates, though, that he thought he had a substantial chance
9 of getting away with this. Now that chance has evaporated and
10 he's faced with the choice of spending more than a decade in
11 jail perhaps or attempting to flee.

12 So we think for those reasons, your Honor, detention
13 is justified on both risk of flight and danger to the
14 community.

15 THE COURT: Okay. Let me first comment on, the
16 defendant has a right to go to trial and his exercise of that
17 right -- I'm not going to look behind that to sort of figure
18 out that issue. In other words, I'm not going to -- when you
19 say there were plea negotiations, was there ever a written plea
20 offer made?

21 MR. MEAD: There were two written plea offers, your
22 Honor. I may get the dates slightly wrong. I believe one in
23 February and one in July of this year.

24 THE COURT: Okay. So I'm not going to sort of go
25 behind that. I mean, a defendant can choose to go to trial,

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1 obviously, represented by counsel. It's the defendant's
2 choice, regardless of what the defendant's and counsel's views
3 are with regard to what the possible defenses are. So, I'm not
4 going to put that into the calculus.

5 But let me ask, with regard to risk of flight, and you
6 should know, does the government have any evidence that
7 Mr. Darden has any connections to any foreign countries?
8 Understanding someone could flee within the United States. I
9 understand that. But, in other words, is there any reason to
10 think either connections to foreign countries or the government
11 is aware of some sort of preparations or anything like that
12 with regard to flight?

13 MR. MEAD: We're not aware of any substantial
14 connections to foreign countries, and we're not aware of any
15 preparations for flight.

16 THE COURT: Although I recognize the issue of this
17 fraud beginning while Mr. Darden was on supervised release, in
18 connection with his prior convictions, state conviction and
19 then after his conviction, federally, was there any evidence
20 that Mr. -- well, and putting to the side the supervised
21 release, that he committed fraud during the pendency of the
22 cases, both in terms of the state case, the earlier federal
23 case before Judge Rakoff, and then, lastly, here? In other
24 words, does the government have any evidence that while
25 Mr. Darden has been on release, that even if it's not direct

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1 evidence of fraud, but evidence of other sort of financial
2 transactions, opening of accounts, things like that, that could
3 possibly be indicia of preparing for some sort of illegal
4 activity, financial activity?

5 MR. MEAD: We're not aware of any evidence like that.
6 All I'll say on that point is it's difficult for us to get that
7 kind of evidence. We don't have any phone or his emails from
8 that period, but we're not aware of any evidence.

9 THE COURT: Okay. Let me hear from the defense.

10 MR. RICCO: Yes.

11 THE COURT: Yes, Mr. Ricco.

12 MR. RICCO: So, Judge, I think I'll start with the
13 defendant appears. He appeared here. I think that he showed
14 great respect for the Court throughout, you know, throughout
15 the proceedings, and has always communicated with counsel.

16 The defendant was made very well aware that he could
17 be convicted in this case and what that would mean. And I
18 would say, Judge, I looked at his testimony before Judge Rakoff
19 and, you know, reviewing that testimony, I didn't see any
20 testimony about bad acts or crimes that took place between
21 those two proceedings. I think it's something that would have
22 come out in proffer sessions and would have been something that
23 would have been a part of the testimony.

24 I would also say, Judge, since he's been out on this
25 case, I don't think there's been any evidence that he's been

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1 involved in the kind of crimes that he's been convicted of. So
2 there are circumstances where the defendant is not a threat,
3 he's not always a threat to the community, and though it's not
4 a lot of evidence, there is some evidence of it.

5 The defendant has a wife, and family, and parents who
6 are not doing too well. Health reasons. He has great
7 incentives to stay or be a part of his family.

8 I can tell the Court that during these court
9 proceedings, I was in regular touch with his mother, had no
10 contact with his father at all. I think Mr. Donaldson may have
11 at one point. And so he has a strong incentive to stay. His
12 family needs him. He knows he's facing a prison sentence here.

13 He also recognizes, Judge, in this circumstance --
14 look, he could be in a situation with no banking, no --
15 whatsoever, no closing of accounts, no openings of accounts, no
16 removal of monies from any accounts. And, you know, we could
17 restrict his access, you know, no internet.

18 Judge, you know, it could even be a situation where
19 your Honor says, look, put him on home detention; he doesn't
20 leave the home other than, you know, counsel, and of course any
21 emergencies related to his parents. We could severely restrict
22 the defendant's access and means to engage in the kind of
23 conduct that has derailed his life and the life of, you know,
24 other individuals.

25 Judge, for what it's worth, counsel has had some

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1 dealings with the defendant. I can tell your Honor, when in
2 preparation of this case, I traveled down to Atlanta, I met
3 with the defendant, his family. And I think the conviction,
4 Judge, would be difficult, is difficult. I think this is --
5 there's evidence to show that he's not a threat to the
6 community such that the Court can impose circumstances on him
7 to address those concerns on -- the defendant's passport is in
8 the possession of the government, and he has no travel recently
9 outside of the United States. And the Court can restrict his
10 travel, restrict his movement, restrict his access.

11 And I think, Judge, those things would be sufficient
12 between now and sentencing. We'll do everything we can to get
13 this case to sentencing soon. And, you know, sometimes the
14 issue is difficult, but notwithstanding Mr. Darden, Jr.'s
15 conduct, I think there have been times in his life where he's
16 not been engaged in this type of conduct, and I think this is
17 one of those times, Judge. And I think that he recognizes the
18 severity of what -- you know, what would happen here should he
19 -- you know, should he deviate one inch.

20 So we would ask that the Court make a finding by clear
21 and convincing evidence that he is -- to the extent that one
22 would say that he's a threat, that there are circumstances that
23 could be put in place to curtail that, and that he is not a
24 risk of flight. And to the extent that he is, circumstances
25 could be put in play to prevent that from happening.

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1 THE COURT: All right. I apologize. I was looking at
2 computer screen, Mr. Ricco, because I wanted to see exactly
3 what the bail conditions are.

4 Now, first, as a preliminary matter, as to bail
5 conditions that are currently set, I believe they would not be
6 sufficient. However, I do think that we could craft conditions
7 such that that would make it so I can in fact make a finding
8 that, based upon these conditions, that Mr. Darden is not a
9 danger to the community.

10 I think flight, with regard to flight, there doesn't
11 appear to be any evidence. There are substantial ties.
12 Mr. Darden has family in Atlanta and other parts of the
13 country. He does have parents who are elderly, and certainly
14 information on his father indicates certain health conditions.
15 So I think his ties are sufficient that the risk of flight is
16 minimal, and, as a United States citizen, it would be very
17 difficult for him to go somewhere else.

18 But what are the current conditions of his release? I
19 apologize. I was trying to look it up on the docket. I guess,
20 first, is there a bond or was there a release and, if so, who
21 signed the bond?

22 I don't know why I'm not able to -- perhaps I could
23 prevail on -- oh, wait. There we go. All right. Ms. Disla is
24 printing that out.

25 But I think that the bail conditions -- okay. So it's

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1 a \$75,000 personal recognizance bond cosigned by three
2 financially responsible people; travel restricted to Northern
3 District of Georgia and points in between -- it says for travel
4 purposes, but I assume that's for purposes of meeting with
5 lawyers and the like; no contact with codefendants.

6 So here are the additional conditions. Now, I have no
7 contact with any of the codefendants or alleged victims outside
8 the presence of counsel; do not open any new financial,
9 business, personal bank accounts, debit or credit card
10 accounts, lines of credit, or loans without prior approval from
11 pretrial services; do not manage, take possession of or invest
12 funds belonging to any third party.

13 So with regard to that, I would actually add not only
14 third party but with regard to anyone. So even if they are
15 funds of his own. So, basically, of anyone.

16 Now my deputy has actually handed me the actual bond.
17 So it does include the same provisions: Do not sell, transfer,
18 or give away any asset valued at \$100,000 or more. There I
19 think -- without notifying, obtaining permission of pretrial
20 services, except for fees to attorney. So that is going to
21 change to "do not sell, transfer, or give any asset of -- any
22 asset valued at" -- it will be "\$1,000 or more, without
23 notifying, obtaining permission from pretrial services." I'll
24 still include except for fees to attorney retained to represent
25 you in the criminal case.

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1 So is there a bond? Because it says, the bond to be
2 secured by a property worth approximately a million dollars
3 owned by the defendant's mother.

4 MR. RICCO: That was done, your Honor, and that's in
5 place.

6 THE COURT: All right. So that's pledged.

7 So is that property in Georgia?

8 MR. RICCO: Yes, it is, Judge.

9 THE COURT: Okay. Then the conditions were to be met
10 by April 12 of 2023.

11 So with regard to the amount of the bond and the
12 security, in other words, the million dollar -- and assuming,
13 and the government should check to make sure that all steps
14 have been taken for the -- and I don't know what the law is in
15 Georgia. I know in New York you have to --

16 MR. RICCO: You have to file a judgment.

17 THE COURT: Okay. So there's a judgment.

18 MR. RICCO: No. In New York you do. I don't know if
19 in Georgia --

20 THE COURT: Yes. Just make sure there is, in fact,
21 that security.

22 With regard to I think home confinement, GPS
23 monitoring, Mr. Darden is not allowed to leave the home except
24 for medical visits that are -- well, if there's an emergency,
25 that's one thing, but he is not allowed to leave the home

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1 unless it's a doctor's appointment and he informs pretrial
2 services of that.

3 With regard to -- let me ask Mr. Ricco, has Mr. Darden
4 been working?

5 MR. RICCO: No, Judge.

6 THE COURT: Okay.

7 MR. RICCO: During the pendency of this, no.

8 THE COURT: All right. That's to continue.

9 MR. RICCO: Right.

10 THE COURT: So not to go outside and look for a job or
11 anything like that.

12 With regard to any work from the home, there will be
13 no work from the home.

14 With regard to access to computers, he can use his
15 phone. The communications he can have are still limited as
16 indicated in the instruction, but you're not to use the
17 internet, full stop. Right. With the exception of email
18 communication and texts with family. All right. But no
19 internet searches and the like.

20 With regard to any bank accounts that you control,
21 you're to provide that information within the next week to not
22 only pretrial but to the government, and you're to provide them
23 with the ability to access, by access I mean view, those
24 accounts, so that they can be monitored.

25 That means -- so, all of these restrictions are placed

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1 upon you, but you cannot, just to be clear, utilize anyone else
2 to carry out other things. If there are certain financial
3 transactions that you believe you need to take in advance of
4 your sentencing, you're to tell pretrial services and your
5 attorneys, and they're to speak to the government to determine
6 whether or not those financial -- how to go about, if at all,
7 those financial activities.

8 In other words, you're not to transfer any assets.
9 You're not to -- either assets under your name or that you
10 control. In other words, you can't direct others to basically
11 transfer assets. Well, let me ask, are there any other --
12 those are the conditions off the top of my head.

13 MR. RICCO: And, Judge, if I may?

14 THE COURT: Yes.

15 MR. RICCO: With respect to even travel here to New
16 York, you know, we have no objection to his remaining in
17 northern Georgia, and to the extent that -- he can always
18 communicate with us via Zoom for the things that we have to do
19 and sentencing, and this way just no traveling at all. If we
20 need to go, if there's a need for it --

21 THE COURT: You need to see him --

22 MR. RICCO: -- we'll notify pretrial, we'll notify the
23 government, and have that tightly monitored.

24 THE COURT: Okay. So I think that makes sense. In
25 other words, and let me just restate it just to make sure I

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1 understand, there will be no travel, as there normally would be
2 to come to New York to visit counsel. Those communications and
3 otherwise -- and obviously in my comments about using the phone
4 and otherwise, he can obviously communicate with counsel. That
5 any communications, though, or any preparation for sentencing
6 will be done and motions and the like will be done remotely,
7 and that any travel to New York must be pre-approved. In other
8 words, by letting pretrial know, but through me. So that
9 Mr. Darden is going to have to remain in his home.

10 Let me ask the government, are there any other
11 restrictions that the government believes would be appropriate?

12 I know obviously the government sought detention, but
13 that's not my ruling here today.

14 MR. MEAD: No, your Honor, and we appreciate the
15 conditions you've crafted. Those make sense to us.

16 THE COURT: Okay. Look, Mr. Darden, let me be clear
17 about something --

18 Thank you, Marshals.

19 If I get an inkling that anything untoward is
20 happening, I'm going to remand you.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: No question. So you need to abide by the
23 terms of your release. If there is an issue that comes up,
24 speak to your lawyers. Don't let things just hang out there.

25 So I think in terms of the modification of the bond, I

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1 don't know if the government could and the defense could
2 interface with pretrial here, because obviously they need to
3 make arrangements for -- well, let me ask Mr. Donaldson,
4 Mr. Ricco, how long is Mr. Darden going to be in New York?

5 MR. RICCO: He's going back -- the latest he is going
6 to be in New York is tomorrow morning.

7 THE COURT: Okay. So you should reach out to pretrial
8 as soon as this is done to make sure. I don't know who
9 Mr. Darden's pretrial services officer is in Georgia. I don't
10 know what their abilities are in terms of electronic monitoring
11 and home detention, but I want those arrangements to start now,
12 and so that by next week that will be in place.

13 But during the pendency, in other words, before you
14 have the monitoring, in other words, the ankle bracelet or
15 however they monitor in Georgia, the terms of house arrest --
16 and I don't know whether it's home detention or not, but it
17 will be either house arrest or home detention. I can't
18 remember the exact distinction. They are terms of art. But
19 why don't we make it house arrest, because I think it's more
20 restrictive. But that applies. In other words, you have to
21 stay at home.

22 So I would like, after this proceeding is done, for
23 the parties to reach out to pretrial to start that rolling.

24 So all the other conditions will remain in place that
25 are part of the current bond. There will be a modification, as

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1 I said, to add for home incarceration, with electronic
2 monitoring, the ability to -- so, with regard to just the
3 financial issues, you know, the provision of the bank accounts
4 either controlled directly or indirectly by Mr. Darden must be
5 disclosed to pretrial and to the government. The ability to
6 access those accounts or monitor those accounts must be
7 provided.

8 The amount with regard to do not sell, transfer, or
9 give away any asset valued at, it's \$1,000 or more, without
10 notifying or obtaining permission, except for the attorneys'
11 fees.

12 Now, with regard to, do not manage, take possession or
13 invest funds belonging to anyone. Do not -- it says to third
14 parties, but I think to anyone.

15 With regard to any assets, you're not to have any
16 financial transactions with any assets without notifying
17 obviously your counsel, but pretrial and the government, with
18 regard to any transfers. That includes assets you own directly
19 or indirectly.

20 Okay. I think there either may be a need to sign an
21 amended bond, although I don't know that, so I'd ask the
22 parties or -- well, those are the conditions I'm setting. I
23 don't know if they need to -- you need to contact the criminal
24 clerk's office in magistrate court to -- I just don't know. We
25 could do a supplemental -- yes, we'll do an order with regard

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1 to that, but my oral order is sufficient. In other words, that
2 these are the conditions that you have to abide by, Mr. Darden.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Let me ask -- so within a week
5 the parties will provide me with any scheduling with regard to
6 any motion, post-verdict motion practice, and the parties will
7 start the ball rolling with regard to the modifications
8 necessary for home incarceration with electronic monitoring.
9 If there are problems with that, I'd like to be notified of
10 that, but I expect that to be accomplished by next week.

11 The government should just confirm that everything
12 that is needed to be done to create a security interest in the
13 property down in Georgia has been done.

14 Yes, Mr. Ricco.

15 MR. RICCO: Yes. Judge --

16 THE COURT: I'm sorry. Just to your point, the last
17 point was that travel is going to be now just your Northern
18 District of Georgia. Any travel outside of the Northern
19 District of Georgia must be approved by me. Okay?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Yes, Mr. Ricco.

22 MR. RICCO: Yes. So, Judge, my only concern is the
23 defendant has a relationship with his pretrial service officer
24 in Georgia and he has 24-hour capability of cell number. My
25 only concern is if there's a medical hospital emergency --

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1 THE COURT: Yes.

2 MR. RICCO: -- related to his parents, that the
3 defendant have the right to do that, but contact his pretrial
4 service officer in Georgia beforehand and get that approval
5 beforehand.

6 THE COURT: Okay. So just so that I know, so you
7 reference to 24 hours. That means he has access to his
8 pretrial officer, can call or text or whatever. Now, with
9 regard to medical emergencies, they will apply to Mr. Darden's
10 own medical emergencies, or medical emergencies of immediate
11 family. So that includes your wife, your daughter, your
12 mother, and your father. That's what it's limited to.

13 Mr. Darden must immediately notify, and he can use his
14 phone obviously to communicate with pretrial, and that's the
15 other condition, actually, the phone. No use of the internet,
16 except to use your phone to call or contact family members. So
17 the emergency can apply to the immediate family members as just
18 delineated, but pretrial services must be notified immediately.
19 In other words, of the medical emergency and where you're
20 going.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Obviously, there will be a notification
23 through the electronic monitoring, but you want to avoid the
24 electronic monitoring being triggered, because that will lead
25 to your arrest, and people will start looking for you at that

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1 point. Okay?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: But you should notify them not only of the
4 nature of the emergency but where you're going.

5 Okay. Anything else?

6 MR. MEAD: Sentencing date, your Honor.

7 THE COURT: Yes. So, Ms. Disla, could we have a date
8 about a hundred days out?

9 THE DEPUTY CLERK: Friday, January 17, 2025, at 11:00
10 a.m.

11 THE COURT: All right. So it's January 17, 2025.

12 MR. DONALDSON: Judge, could we have a different
13 Friday --

14 THE COURT: Yes.

15 MR. DONALDSON: -- if possible? That's the Friday
16 before the holiday.

17 THE COURT: Okay. Yes.

18 THE DEPUTY CLERK: Monday, January 27.

19 THE COURT: The 27th.

20 MR. DONALDSON: That works, Judge. Thank you.

21 THE COURT: At 11:00 a.m.

22 MR. RICCO: And, Judge, we're going to work hard to
23 make that a real sentencing date.

24 THE COURT: That's fine. Obviously, then, with regard
25 to any motion practice, that should be done during that time

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1 period, because I guess what I'll say is, obviously, that's
2 fine, and I understand if there is -- we should try, and I
3 agree we should try and get everything done in that time
4 period.

5 So, Mr. Darden, what that also means is you need to
6 use the time between now and then obviously to speak with your
7 lawyers about motions and sentencing, but also to get your
8 affairs in order, whatever that may be, because I'm unlikely to
9 grant an extension based on the fact that you haven't had an
10 opportunity to get your affairs in order, an extension of your
11 sentencing date. Okay?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anything else from the government?

14 MR. MEAD: No, your Honor.

15 THE COURT: Anything else from the defense?

16 MR. RICCO: No, your Honor.

17 THE COURT: So just let me know if there are issues
18 with regard to the home incarceration and detention, and we
19 will issue an order, it may not hit the docket today, but by
20 Monday, outlining the additional conditions.

21 All right. Thank you very much. We'll stand
22 adjourned.

23 (Adjourned)
24
25